

## PATENT COOPERATION TREATY

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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GOWLING LAFLEUR HENDERSON  
PATENT DEPARTMENT

PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference T8465038WO		Date of mailing (day/month/year)	06.08.2001
International application No. PCT/CA00/00706		REPLY DUE	within 1 month(s) from the above date of mailing
International filing date (day/month/year)	14/06/2000	Priority date (day/month/year)	14/06/1999
International Patent Classification (IPC) or both national classification and IPC G06F17/30			
Applicant WIND RIVER INTERNATIONAL INC. et al.			

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- This written opinion is the first drawn up by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain document cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

- The applicant is hereby invited to reply to this opinion.


**When?** See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also:** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 14/10/2001.

Name and mailing address of the international preliminary examining authority:  
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Authorized officer / Examiner

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Formalities officer (incl. extension of time limits)

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**WRITTEN OPINION**International application No. **PCT/CA00/00706****I. Basis of the opinion**

1. With regard to the **elements** of the international application (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"):

**Description, pages:**

1-10 as originally filed

**Claims, No.:**

1-20 as originally filed

**Drawings, sheets:**

1-7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:

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☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):  
*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

- |                               |  |
|-------------------------------|--|
| 1. Statement                  |  |
| Novelty (N)                   | Claims No 1,4,8,9,12,15-17 Yes 5,6,10,11,20  |
| Inventive step (IS)           | Claims No 2,3,7,13,14,18,19 Yes 5,6,10,11,20 |
| Industrial applicability (IA) | Claims Yes 1-20                              |

2. Citations and explanations  
**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:  
**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:  
**see separate sheet**

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**Section V:**

- 1 The following document D1 = SLACK S.: "PUBLISHED WORKS: EXTENDING YOUR DESKTOP WITH PILOT" THE WINDWARD GROUP - NEWS AND VIEWS, September 1996 - October 1996, pages 1-19, XP002158528 was found during the international search. It was considered to be particularly relevant for claims 1,4,8,9,12,15-17 meaning that the inventions claimed in these claims cannot be considered to be novel or to involve an inventive step when taking this document alone. The following document D2 = EP-A-284924 (IBM) was also found during the international search. It was considered to be particularly relevant for claims 1,4,8 meaning that the inventions claimed in these claims cannot be considered to be novel or to involve an inventive step when taking this document alone. The further documents D3 = EP-A-913769 (SUN MICROSYSTEMS INC) was considered particularly relevant for claims 2,3,7,13,14,19 meaning in this case that when taken together with document D1, the claimed invention is considered to be obvious to a person skilled in the art related to the technical field of the current application. The document D4 = "JAVA DYNAMIC MANAGEMENT KIT", SUN MICROSYSTEMS INC., 'Online! 1998, pages 1-2, XP000215807 also found during the international search was considered also of particular relevance for claim 18 in this case meaning, that when taken together with document D1, the claimed invention is considered to be obvious to a person skilled in the art related to the technical field of the current application.

The Applicant is therefore requested to carefully analyse documents D1, D2, D3 and D4 and the bearing they have on the subject matter of the current set of claims. If the Applicant maintains the view that the application contains patentable subject matter he is asked to give a reasoned argument to this fact by pointing out the difference between any independent claim with the teachings of D1, D2, D3, and D4. If necessary he is asked to amend the set of claims. Care should also be taken to overcome the objections to clarity put forward below in section VIII of this written opinion.

**Section VII:**

- 2 The independent claims 1,6,9,12 do not specify corresponding sets of technical features. This leads to lack of conciseness of the claims contrary to Article 6 PCT. It further leads to doubts about which are the technical features of the invention,

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because any independent claim should include those technical features in accordance with Rule 6.3(a) PCT. Due to the alternative formulations it becomes not clear which these technical features are.

The documents D1,D2,D3,D4 were cited in the international search report and indicated as particularly relevant with respect to the claimed invention. The Applicant is requested to observe Rule 5.1(ii and iii)PCT by indicating D1,D2,D3,D4 in the description and to adapt the description in such a way that an advantageous effect, if any, can be understood with respect to D1,D2,D3,D4.

The technical features mentioned in the claims shall preferably be followed by reference signs relating to such features, see Rule 6.2(b) PCT.

The independent claims 1,6,9,12 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

**Section VIII:**

- 3 Claims 1,6,9,12 are not clear for the following reasons: The formulation of features in these claims is such that the sets do not specify corresponding features. Claims 6,9 are related to determination whether a list of objects from an archive was being committed when a device was powered-off. The system of claim 12 is generally corresponding to the method of claim 1, but added on the last two lines the feature of allowing device recovery upon initialization if a said device loses power during a said commission. It becomes thus not clear whether the power-off related recovery of interrupted commissioning of a list of objects is an essential technical feature. In such a case it should be included in any independent claim, see Rule 6.3 PCT. In the present case it would seem that it may such an essential technical feature.